

## State Government & Tribal Affairs Committee

### HB 2016

**Brief Description:** Concerning campaign contribution and disclosure laws.

**Sponsors:** Representatives Flannigan, Appleton, Hurst, Miloscia and Hunt.

#### Brief Summary of Bill

- Reorganizes and recodifies chapter 42.17 RCW.
- Requires additional listings of contributors for independent expenditures and electioneering communications in the event that one of the top five contributors is a political committee.
- Allows bona fide political parties to use exempt funds for independent expenditures and fund-raising for candidates.

**Hearing Date:** 2/12/09

**Staff:** Marsha Reilly (786-7135)

#### **Background:**

##### Reorganization

Initiative 276, passed by the voters in 1972, established disclosure of campaign finances, lobbyist activities, financial affairs of elective officers and candidates, and access to public records. That initiative also created the Public Disclosure Commission (PDC), a five member, bi-partisan citizen commission, to enforce the provisions of the campaign finance disclosure law.

Twenty years later, in 1992, the Fair Campaign Practices Act was enacted following passage of Initiative 134. Initiative 134 imposed campaign contribution limits on elections for statewide and legislative office, further regulated independent expenditures, restricted the use of public

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funds for political purposes, and required public officials to report gifts received in excess of \$50.

Since the enactment of these initiatives numerous changes and additions have been made, including the enactment of SHB 1133 resulting in a recodification of the public records portion of the Public Disclosure Act into a new chapter, chapter 42.56 RCW.

### Political Advertising

*Issue advocacy* does not oppose or support a candidate. It explains an issue which may be of contention in a political campaign. Advertisements that contain issue advocacy are not regulated or limited. However, when the issue ad exhorts the audience to the action of voting or not voting for a particular candidate, or attacks a candidate's character, it then becomes *express advocacy*. This causes the issue ad to revert to a political ad, which is regulated. In 2003, the United States Supreme Court in *Federal Election Commission v. McConnell* held that issue ads broadcast during the 30-day and 60-day periods preceding federal primary and general elections are the "functional equivalent" of express advocacy.

Provisions for reporting political advertising and electioneering communications were enacted by the Legislature in 2005. Political advertising undertaken as an independent expenditure by a person or entity other than a party organization, and all electioneering communications must include a statement indicating that the ad is not authorized by any candidate, as well as information on who paid for the ad. If an ad is an independent expenditure or electioneering communication sponsored by a political committee, the top five contributors also must be listed.

### **Summary of Bill:**

#### Reorganization

Chapter 42.17 RCW is reorganized and language is clarified. Obsolete provisions relating to the information technology plan and electronic filing are removed. The provisions repealed in RCW 42.17.131, 42.17.362, 42.17.365, 42.17.375, 42.17.562, 42.17.620, and 42.17.647 are included in other statutes. The definition of "person in interest" is moved from chapter 42.17 RCW to chapter 42.56 RCW as the term is applicable to the public records statutes. The contribution dollar amounts are updated and technical changes are made to clarify language.

#### Political Advertising

Requirements pertaining to independent expenditures and electioneering communications that require listing of the top five contributors are expanded. If one or more of the entities disclosed on the top five list is a political committee, other than a political party, then the top five disclosure requirements also pertain to that political committee, and if one of the top five contributors from that second tier is a political committee, other than a political party, the top five disclosure requirements apply again.

Issue advertisements by bona fide political parties are exempt from contribution limits. A bona fide political party may use exempt funds for its own internal organization or fund-raising for candidates. An "issue advertisement by a bona fide political party" is any communication paid for by a bona fide political party that does not contain express words of advocacy of election or defeat of a clearly identified candidate.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.